



**Colorado
Legislative
Council
Staff**

HB17-1087

**REVISED
FISCAL NOTE**

(replaces fiscal note dated January 31, 2017)

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 17-0198
Prime Sponsor(s): Rep. Young
Sen. Lundberg

Date: March 1, 2017
Bill Status: House Appropriations
Fiscal Analyst: Amanda Hayden (303-866-4918)

BILL TOPIC: OFFICE OF PUBLIC GUARDIANSHIP PILOT PROGRAM

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019	FY 2019-2020
State Revenue	See State Revenue section.		
State Expenditures		\$1,635,730	\$1,644,820
General Fund		107,176	107,176
Cash Funds	Workload increase.	1,528,554	1,537,644
FTE Position Change		10.0 FTE	14.0 FTE
TABOR Impact	See TABOR Impact section.		
Appropriation Required: None.			
Future Year Impacts: Conditional ongoing state expenditures increase through FY 2020-21.			

Summary of Legislation

This bill, **as amended by the House Judiciary Committee**, creates a pilot program in the Judicial Department to provide legal guardianship services for incapacitated and indigent adults in the 2nd, 7th, and 16th judicial districts, conditional upon the receipt of sufficient gifts, grants, or donations. To administer the program, the bill creates a five-member Public Guardianship Commission, with three members appointed by the Colorado Supreme Court and two by the Governor before November 1, 2017.

Office of Public Guardianship. Not more than one month after receiving at least \$1.7 million in gifts, grants, or donations, the Commission must appoint a director to establish, develop, and administer the Office of Public Guardianship (Office), to provide legal guardianship services to indigent and incapacitated adults with no family or friends available and appropriate to serve as the guardian, and who lack the resources to compensate a private guardian. The director must develop rules to implement the pilot program, including policies regarding conflicts of interests for guardians and the solicitation of funds. The Office must operate as an independent program of the Judicial Department, developing its own personnel rules but following judicial fiscal rules. The Office is required to coordinate its efforts with county departments of human and social services in providing guardianship services. Not more than five months after receiving at least \$1.7 million in gifts, grants, or donations, it must provide the following services:

- a review of referrals;
- eligibility criteria and prioritization to ensure it serves the individuals with the greatest needs;

- appointment and post-appointment public guardianship services of a guardian-designee for each incapacitated and indigent adult in need, including the recruitment, training, and oversight of guardian-designees;
- support for modification or termination of public guardianship services;
- development of a process for receiving, considering, and responding to complaints against the Office, including investigation when necessary;
- implementation of a data management system;
- office management, financial planning, and budgeting;
- identification and establishment of relationships with stakeholder agencies, nonprofit organizations, companies, individual care managers, and direct-care providers to provide services within the financial constraints established for the office;
- identification and establishment of relationships with local, state, and federal agencies so that guardians and guardian-designees may apply for public benefits on behalf of their clients; and
- public education and outreach regarding the role of the Office.

Courts must waive costs and filing fees in any proceeding in which an adult is receiving public guardianship services from the Office.

Repeal of program. On or before January 1, 2021, the director of the Office must submit a report to the General Assembly describing the unmet need for services, costs, benefits, efficiencies, obstacles, and other analysis. The director must also develop a strategy for the discontinuation of the Office in the event that the General Assembly chooses not to continue or expand it. Without such a decision by the General Assembly, the pilot program repeals June 30, 2021.

Office of Public Guardianship Cash Fund. The bill creates the Office of Public Guardianship Cash Fund. It is authorized to accept gifts, grants, and donations. The money in the fund is annually appropriated to Judicial Department to pay the expenses of the Office.

Background

The Elder Abuse Task Force, created by Senate Bill 12-078, recommended further study of the need for public guardianship services in Colorado. As a result, the Public Guardianship Advisory Committee was formed to study the issue. The Advisory Committee submitted its recommendations for a pilot program in a report to the Chief Justice of the Colorado Supreme Court on July 31, 2014.

Public guardianship proceedings determine when an incapacitated and indigent adult requires assistance managing his or her affairs. Individuals employed or appointed by the court manage different aspects of the proceedings, as described below.

Court visitors. Current law requires the appointment of a court visitor in every proceeding for public guardianship. Court visitors provide investigative services for the court. They interview the respondent and other involved parties to make recommendations about the appropriateness of a guardianship.

Guardians ad litem (GALs). GALs are court-appointed representatives who defend or protect the interests of a person under legal disability. At any stage of a proceeding, a court may appoint a GAL if the court determines that one is necessary to protect a respondent's interests.

Legal counsel. The court may also appoint legal counsel to represent an indigent respondent's legal interests at the request of the respondent, when recommended by the court visitor, or at the discretion of the court.

Public guardians. Public guardians are appointed to help a person manage his or her affairs outside of court. For example, they may help a person pay bills or properly take medication. Public guardians are charged by law with making decisions about a person's support, care, education, health, and welfare.

Assumptions

The estimated program costs in the fiscal note assume sufficient revenue is received in FY 2018-19. The actual start date may differ if gifts, grants, or donations are received in a later year. In order to have time to implement the pilot program, funding must be received no later than FY 2019-20. Otherwise, it is assumed the pilot program will not be implemented.

State Revenue

The bill may increase revenue from gifts, grants, and donations to the Judicial Department, credited to the Office of Public Guardianship Cash Fund. As of this writing, no source of gifts, grants, or donations has been identified. The bill may also reduce cash fund revenue from filing fees not charged for proceedings handled by the Office. Any decrease in revenue is expected to be minimal.

TABOR Impact

This bill may reduce state cash fund revenue from fees, which may reduce the amount of money required to be refunded under TABOR for FY 2017-18 and FY 2018-19. TABOR refunds are paid out of the General Fund. Since the bill reduces the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will increase by an identical amount. Gifts, grants, or donations received to operate the program do not contribute to the TABOR revenue cap.

State Expenditures

This bill may increase workload and expenditures in the Judicial Department, conditional upon the Office receiving at least \$1.7 million in gifts, grants, or donations.

Judicial Department. In FY 2017-18, the bill may increase workload in the Judicial Department for the appointed members of the Commission to hire an executive director for the Office. The fiscal note assumes the Commission members serve without compensation. Beginning in FY 2018-19, the bill may increase General Fund expenditures by \$107,176 each year and cash fund expenditures by \$1,528,554 and 10.0 FTE in FY 2018-19 and by \$1,537,644 and 14.0 FTE in FY 2019-20 in the Judicial Department to launch the pilot program for public guardianship services. These costs are shown in Table 1.

Table 1. Expenditures Under HB17-1087			
Cost Components	FY 2017-18	FY 2018-19	FY 2019-20
Personal Services		\$916,798	\$1,229,814
FTE		10.0 FTE	14.0 FTE
Operating Expenses and Capital Outlay Costs		376,387	13,300
Guardians ad Litem		30,780	30,780
Court Visitors		43,600	43,600
Court-appointed Counsel		32,796	32,796
Centrally Appropriated Costs*		235,369	294,530
TOTAL		\$1,635,730	\$1,644,820

* Centrally appropriated costs are not included in the bill's appropriation. Based on the conditions set by the bill, the fiscal note assumes these expenditures would be paid from cash funds.

Assumptions. The bill directs the pilot program to provide public guardianship services in the 2nd, 7th, and 16th judicial districts not more than five months after receiving at least \$1.7 million in gifts, grants, or donations. The fiscal note assumes that the Office will serve approximately 200 clients per year and will hire 10 public guardians to manage 20 cases each. Based on data from FY 2015-16, approximately 9 percent of cases will require a guardian ad litem and 18 percent will require state-appointed counsel. By law, all public guardianship proceedings must include a court visitor.

Personal services. The fiscal note assumes the executive director of the Office will begin July 1, 2018. The Executive Director will be responsible for hiring staff, implementing a data management system, developing policies and procedures, and coordinating public guardianship services. The fiscal note assumes that the pilot program will require one staff assistant (to start July 1, 2018), one staff attorney, one controller, and ten public guardians, all to begin on October 1, 2018.

Operating expenses and capital outlay. Standard operating expenses and capital outlay costs are included for the staff listed above, except that FY 2018-19 costs include \$300,000 for the purchase of a data management system.

Guardians ad Litem (GALs), court visitors, and court-appointed counsel. Based on the assumptions noted above, the fiscal note assumes that a GAL will be appointed at an average cost of \$1,710 per appointment in 18 cases, an attorney will be appointed at an average cost of \$911 per appointment in 36 cases, and a court visitor will be appointed at an average cost of \$218 per appointment in all 200 cases per year that the Office will handle during its pilot phase. The estimated \$107,176 for these appointments are General Fund expenditures in the Judicial Department and will be covered by the Office of Public Guardianship Cash Fund.

Trial courts. Beginning in FY 2018-19, workload for trial courts may increase to hear new public guardianship cases filed by the Office. The fiscal note assumes that the increase in filings does not require any increase in appropriations for the Judicial Department.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational

purposes and summarized in Table 2. The fiscal note assumes that if the conditions of the bill are met, these costs will be paid from the Office of Public Guardianship Cash Fund. Should the Office require additional funds in the future for leased space, the fiscal note assumes it will request them through the annual budget process.

Table 2. Centrally Appropriated Costs Under HB17-1087			
Cost Components	FY 2017-18	FY 2018-19	FY 2019-20
Employee Insurance (Health, Life, Dental, and Short-term Disability)		\$84,181	\$117,762
Supplemental Employee Retirement Payments		82,150	110,198
Indirect Costs		69,038	66,570
TOTAL		\$235,369	\$294,530

Local Government Impact

If the Judicial Department receives \$1.7 million in gifts, grants, or donations, this bill may reduce costs and workload for county departments of human or social services in the judicial districts where the pilot program will operate if the Office takes on public guardianship cases that would have otherwise been handled by these county departments. Costs for individual cases and across counties vary; the fiscal note has not estimated the precise impact to local governments.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Counties
 Judicial

Human Services
 Treasury

Information Technology